

## Response to Comments

**Comment Deadline: October 25, 2021 by 5:00 p.m.**

Draft National Pollutant Discharge Elimination System (NPDES) Permit for Concentrated Animal Feeding Operations (CAFOs) Within the Colorado River Basin Region  
Order R7-2021-0029

The responses to comments received during the public comment period are set forth below. Please contact Jose Valle de Leon at (760) 776-8940 or [Jose.ValledeLeon@Waterboards.ca.gov](mailto:Jose.ValledeLeon@Waterboards.ca.gov) with any questions.

Comment Letter #	Date	Commenter	
Email 1	10/25/2021	Scott Chapman (Brandt Co.) aggiechap@gmail.com	
Comment #	Location in the WDRs	Comment	Staff Response
1.1	General Waste Discharge Requirements, VII.C.2, Page 21-22	<p>This section makes reference to documenting compliance with the limitations in Item VI.B. Item VI.B. is vague and does not establish the parameters to be tested.</p> <p>This section refers to Groundwater Trend Monitoring as a process to establish the quality of the underlying groundwater. It seems premature for a producer to document compliance with an undefined limitation of a groundwater source that has no known water quality standard. Asking an individual producer or a representative group to test and potentially define a water source seems cumbersome and is an undue burden on a small number of CAFO producers to characterize groundwater in the entire Imperial Valley.</p> <p>The proposed timeline of developing a Groundwater Trend Monitoring plan is onerous as there are too many industries within the Imperial Valley that could contribute to impacts to groundwater, not including those sources from Mexico that discharge to the U.S. Substantial</p>	<p>This comment appears to pertain to a preliminary draft of the Order that was changed prior to the public release of the current draft. The current draft of the Order was revised for clarity prior to its release.</p> <p>Compliance with the receiving water limitations for groundwater in Section VI.B will be accomplished through groundwater trend monitoring. Groundwater trend monitoring is required in Section VII.C.2.a. The parameters to be tested are identified in Section VIII.C in Table E-5 of Attachment E, Monitoring and Reporting Program. Potential costs to Dischargers from the groundwater trend monitoring program were considered in Section VIII of Attachment F, Fact Sheet.</p>

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		additional time and an adequate stakeholder process is required to even think about characterizing groundwater in the Imperial Valley.	<p>Groundwater trend monitoring is a new requirement. The urine, manure, and process water generated from the production area of CAFOs may result in the discharge of nutrients and/or salts that have the potential to adversely impact the quality of groundwater. The groundwater trend monitoring will evaluate the water quality of the groundwater underlying the regulated facilities and identify any pollutant concentration trends observed over time. The permit requires Dischargers to monitor groundwater to demonstrate compliance with receiving water limitations for groundwater.</p> <p>As described in Section III.C.1 of Attachment F (Fact Sheet), there are water quality standards that apply to all groundwater within the Colorado River Basin Region, including groundwater in the Imperial Valley. The receiving water limitations for groundwater in Section VI.B of the draft Order require compliance with numeric and narrative water quality objectives that are codified in the Water Quality Control Plan for the Colorado River Basin Region (Basin Plan). The Basin Plan contains water quality standards, consisting of the beneficial uses of a waterbody and the water quality objectives (or "criteria" under federal terminology) designated to</p>

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			<p>protect those beneficial uses, and also includes the federal and state antidegradation policies. (See Wat. Code, § 13240; 33 U.S.C. § 1313.)</p> <p>In meetings with Regional Water Board staff, several Dischargers requested additional time to work with Imperial Valley agricultural growers to develop a groundwater monitoring plan that benefits both groups. The current draft of the Order was updated prior to its public release to allow additional time for development of the groundwater monitoring plans. The draft Order currently allows twenty-four months for development of the groundwater monitoring plan.</p> <p>No changes have been made in response to this comment.</p>
1.2	General Waste Discharge Requirements, VII. C. 3. c. iii. Page 32-33	This section references that the Executive Officer may determine the need for a producer to prepare a groundwater monitoring program on a case-by-case basis based on information in Section IV of the Fact Sheet. The assumption is that the referenced groundwater monitoring program is part of the Groundwater Trend Monitoring specified in Item VII.C.2.	There is no Section VII.C.3.c.iii in the proposed Order. This comment appears to pertain to a preliminary draft of the Order that was changed prior to the public release of the current draft. The referenced language was removed from the proposed Order.
1.3	Attachment F, IV	Section IV of the Fact Sheet referenced above, specifically pages F24 to F-28, provides the technical basis for why groundwater monitoring would not be necessary for producers in the Imperial Valley. The documentation required (groundwater separation, soil characteristics, liner permeability) in the current CAFO permit provides sufficient	This comment appears to pertain to a preliminary draft of the Order that was changed prior to the public release of the current draft. The referenced information related to groundwater was revised. Please see the response to comment 1.1

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		protection for the existing groundwater source. It would seem that a variance or waiver process to the groundwater monitoring program be provided for a producer. It appears difficult to discern what the Executive Officer would require if such a case-by case process existed	concerning why groundwater monitoring is required in the draft Order.

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Email 2	10/25/2021	William Plourd (El Toro Export LLC.) bplourd@eltoroexport.com	
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2.1	General Waste Discharge Requirements	<p>Please incorporate my comments below as previously given into the official record.</p> <p><i>Email Received September 10, 2021</i></p> <p>"I recently had the opportunity to review the Draft CAFO General Order dated April 26, 2021 concerning discharges and ground water monitoring. Operators of a CAFO's in California's Imperial Valley, where groundwater concerns are well known and at no appreciable risk, have concerns the Draft Order will place an unnecessary monitoring responsibility on the Cattle Feeding Industry to conduct monitoring which will yield no value. Therefore I have concerns with the proposed changes in the draft CAFO General Order and would like to see the RWQCB conduct additional discussions with Imperial Valley stakeholders to reach more practical solutions."</p>	<p>Comment noted. Please see the response to comment 1.1.</p> <p>Regional Water Board staff has facilitated several meetings with Imperial Valley stakeholders, including on May 27, July 14, and September 15, to allow input and hear their concerns. Further, the 30-day public comment period required by law was held for the draft Order between September 24 and October 25. Stakeholders will have a final opportunity to offer input on November 2 during the Regional Water Board meeting, where the proposed Order is scheduled to be adopted.</p>

Comment Letter #	Date	Commenter	
Email 3	10/25/2021	Blake Plourd (El Toro Land & Cattle) blakeplourd@eltoroexport.com	
Comment #	Location in the WDRs	Comment	Staff Response
3.1	General Waste Discharge Requirements	<p>Thank you for providing the opportunity comment on Proposed Order No. R7-2021-0029 for Concentrated Animal Feeding</p>	<p>Please see the response to comment 1.1.</p>

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Email 3	10/25/2021	Blake Plourd (El Toro Land & Cattle) blakeplourd@eltoroexport.com	
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		<p>Operations. El Toro Land &amp; Cattle holds three permits in Imperial Valley related to feeding cattle with our 55 employees. The proposed changes to require groundwater trend monitoring similar to the San Joaquin Valley do not fit the conditions for the Imperial Valley. I have had several conversations with staff and we agree that current management practices and local conditions demonstrate minimal risk to groundwater from feedlots. The Basin Plan recognizes several beneficial uses for groundwater, however none of them are currently developed in the agricultural areas of Imperial Valley. Several studies have shown that the existing quality of groundwater in Imperial Valley is poor and unusable. Since these wells do not currently exist, any groundwater monitoring program would require new well construction to assess the quality of a known resource that is not in use and will not likely be in use in the future due to poor quality.</p> <p>I would suggest the following language be placed into the permit to allow additional options for operators to help achieve compliance under the proposed order in a cost-effective manner.</p>	

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Email 3	10/25/2021	Blake Plourd (El Toro Land & Cattle) blakeplourd@eltoroexport.com	
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3.2	General Waste Discharge Requirements, VII.C.a.2 (page 21)	<p>Section 2.a: Add two additional compliance methods to the individual or representative monitoring program:</p> <p>Option #1 – Groundwater impact study</p> <p>In lieu of conducting individual or collective groundwater monitoring, the Executive Officer may approve an alternative study that assesses the risk and impacts of nitrogen, total dissolved solids, and bacteria discharge to groundwater from feedlot corrals and stormwater retention ponds. This option is justified given:</p> <ul style="list-style-type: none"> <li>• Manure is removed from each corral, and corrals are constructed to prevent percolation of urine and manure to groundwater.</li> <li>• Due to the lack of rainfall, stormwater runoff is rarely present in stormwater retention ponds and dissipates quickly through evaporation. Feedlots in the Imperial Valley are not designed like dairies in the Central Valley that continually collect wastewater runoff from flushing barns and feed areas that collect manure and urine. Much of the design of this program mimics what has been done in the Central Valley.</li> </ul>	<p>The Regional Water Board does not have groundwater data indicating that CAFOs are having no impact on the groundwater underlying the CAFO facilities. Moreover, it will take several years to gather data sufficient to analyze any potential impacts to groundwater from CAFO discharges and to identify any trends in degradation. Importantly, the draft Order includes receiving water limitations for groundwater in addition to non-numeric effluent limitations for discharges to surface water. Because the type of study suggested in the comment does not include groundwater sampling, the study would not adequately demonstrate that Dischargers are complying with receiving water limitations for groundwater. No changes have been made in response to this comment.</p>

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		<ul style="list-style-type: none"> <li>The Executive Officer and staff will have the opportunity to review data and the method in which it was collected by researchers. The cost of conducting this exercise will be borne by the industry.</li> </ul>	
3.3	General Waste Discharge Requirements	<p>Option #2 – allow CAFO operators to participate in region wide groundwater study</p> <p>Operations permitted under the NPDES/WDR for CAFOs are expressly granted permission to join a representative monitoring program approved to comply with the WDR for irrigated agriculture, assuming both the representative monitoring program and the permitted CAFO operations agree to the terms and cost of doing so. In essence, one cooperative monitoring program would exist for both CAFOs and irrigated agriculture rather than two separate programs with two distinct monitoring plans and entities providing administrative oversight. This option is justified given:</p> <ul style="list-style-type: none"> <li>Only eight feedlots exist to share the costs of a cooperative monitoring program compared to the hundreds that exist that will be subject to the irrigated agriculture WDR.</li> <li>It's unreasonable to expect the costs absorbed by eight operators to be</li> </ul>	<p>During meetings with Regional Water Board staff, several Dischargers requested additional time to work with Imperial Valley agricultural growers to develop a groundwater monitoring plan that benefits both groups. Regional Water Board staff support collaboration between irrigated agricultural lands dischargers and the cattle feeding industry to conduct groundwater trend monitoring in a representative monitoring program. The proposed Order was updated to allow the requested twenty-four months to develop the groundwater monitoring plan, which could include partnering with irrigated agricultural lands dischargers. As this time extension was granted and nothing in the draft Order prevents Dischargers from joining with irrigated agricultural lands dischargers to conduct monitoring, no changes have been made in response to this comment.</p>



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		<p>economically feasible. Staff point to the program established in the Central Valley for dairies as a likely model, however over 1200 permitted facilities comprised the initial representative monitoring program which significantly lowered the costs of compliance for each individual CAFO.</p> <ul style="list-style-type: none"> <li>If the objective of the groundwater monitoring program is to determine an overall trend in the quality of groundwater and the impacts associated with agricultural activities, having two different and distinct monitoring programs overlaying the same groundwater basin will provide little to no useful information or data.</li> </ul> <p>Operators wishing to adopt their own groundwater monitoring program will retain their right to do so.</p>	

Comment Letter #	Date	Commenter	
Email 4	10/25/2021	Joe Dan Cameron (Mesquite Cattle Feeders) joedan@mesquitecattle.com	
Comment #	Location in the WDRs	Comment	Staff Response
4.1	General Waste Discharge Requirements	Mesquite Cattle Feeders, Inc. is writing this letter to include comments regarding the proposed order No. R7-2021-0029 for	Please see the response to comments 1.1 and 3.3.

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Email 4	10/25/2021	Joe Dan Cameron (Mesquite Cattle Feeders) joedan@mesquitecattle.com	
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		<p>Concentrated Animal Feeding Operations. Imperial County is a unique region that is different from many other agricultural regions of California. The proposed groundwater trend monitoring program, that is similar to what is done in the San Joaquin Valley, does not fit our area or the type of operations we have here in Imperial County.</p> <p>We propose that the Imperial Valley Feeders be allowed the opportunity to look at some other options with Waterboard staff, before a blanket rule is placed over Imperial Valley Feeders with our group bearing the total cost.</p> <p>We would propose that Imperial Valley operations permitted under the NDPES/WDR for CAFOs be granted permission to join a representative monitoring program approved to comply with WDR for irrigated agriculture, assuming both representative monitoring program and permitted CAFO operations agree to the terms and cost of doing so. Our reasoning for this is that only eight feedlot operators exist to share the cost of a representative monitoring program, and it's unreasonable to expect the costs absorbed by eight operators to be economically feasible. The program established in the San Joaquin Valley for dairies included over 1200 permitted operations to spread those costs out over. If the objective of the monitoring</p>	

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		program is to determine an overall trend in the quality of groundwater and the impacts that agriculture have on it, then having two distinct programs over the same basin will provide little to no useful information.	
4.2	General Waste Discharge Requirements	The other option that we might consider is that permitted operators be allowed to commission a study that will be approved by the CRWQB with the cost borne by the industry. After receiving information from a credible source, and the data suggests that CAFOs in Imperial County do not result in a significant discharge of nitrogen, total dissolves solids and bacteria to the groundwater basin, then permitted operators may be exempt from groundwater trend monitoring for the life of the permit. CAFO's in Imperial County are different from other areas of the state primarily because of the lack of rainfall in our area. Stormwater runoff is rarely present in retention ponds. Feed yards in Imperial County are different from dairies in the San Joaquin Valley in that we do not flush out barns and feed areas that collect manure and urine in lagoons and have wastewater present all the time. CRWQB executive office and staff will have the opportunity to review the data and method in which the data was collected by researchers.	Please see the response to comment 3.2.

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Email 5	10/25/2021	Steven Snow (Phillips Cattle) steve@pcc-afi.com	
<b>Comment #</b>	<b>Location in the WDRs</b>	<b>Comment</b>	<b>Staff Response</b>
5.1	General Waste Discharge Requirements	I am very skeptical of a Northern California designed program being imposed on us in the Imperial Valley. What is being asked for is very burdensome, and potentially expensive, and we are too few to share the cost.	Comment noted.